



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,929	06/01/2001	Richard Dean Dettinger	ROC920010022US1	1395
26517 7590 06/20/2008 WOOD, HERRON & EVANS, L.L.P. (IBM) 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202				
EXAMINER				
MIRZA, ADNAN M				
ART UNIT		PAPER NUMBER		
2145				
MAIL DATE		DELIVERY MODE		
06/20/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/871,929
Filing Date: June 01, 2001
Appellant(s): DETTINGER ET AL.

Thomas W. Humphrey
For Appellant
EXAMINER'S ANSWER

This is in response to the appeal brief filed 08/20/2007 appealing from the Office action mailed 08/03/2007.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of the amendments after final rejection contained in the brief is correct.

(5) *Summary of Claimed Subject Matter*

The summary of invention contained in the brief is correct.

(6) *Grounds of Rejection to be Reviewed on Appeal*

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) *Claims Appendix*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

20040088384	Taylor et al	05-2004
20010015975	Kikuchi	08-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-64 are presented for examination.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15,34,49,62 rejected under 35 U.S.C. 101 because “Program product” is not tangible because it is software per se.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al (US 2004/0088384) and Kikuchi (U.S. 2001/0015975).
3. As per claims 1,12,15 Taylor disclosed a method of providing an information handling capability to a client computer system in a networked computer system comprising client and server computer systems, comprising the following steps performed at a server computer system: identifying factors relevant to provision of said information handling capability by said client computer, selecting one of at least a first and a second service to be uploaded to said client computer based upon said factors (Page. 6, Paragraph. 0077),

However Taylor did not disclose in detail said first and second services comprising different executable code for providing said information handling capability, and delivering said selected service to said client computer system, so that said information handling capability may be realized by said client computer upon execution of code within said selected service at said client computer system.

In the same field of endeavor Kikuchi disclosed, "A user receives services and content information in his/her data communication terminal 1 from an application server (AP server) through a wire/wireless network, a channel, the service provider and Internet. Herein a packet means a block comprised of user data and a header. Data is transmitted in such blocks in an

Internet transfer protocol. The header means control data including, for instance, addresses of a transmitter and a receiver, a service identifier, a check sum, and sizes of user data and a header” (Page. 7, Paragraph. 0037).

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have incorporated A user receives services and content information in his/her data communication terminal 1 from an application server (AP server) through a wire/wireless network, a channel, the service provider and Internet. Herein a packet means a block comprised of user data and a header. Data is transmitted in such blocks in an Internet transfer protocol. The header means control data including, for instance, addresses of a transmitter and a receiver, a service identifier, a check sum, and sizes of user data and a header as taught by Kikuchi in the method of Taylor to provide cost effective method and system while at the same time reduce latency.

4. As per claims 2,13,16 Taylor-Kikuchi disclosed wherein said services comprise data in addition to executable code (Kikuchi, Page. 7, Paragraph. 0037).
5. As per claims 3,14,17 Taylor-Kikuchi disclosed wherein said factors comprise one or more of: the operating system used by said server computer system, the operating system used by said client computer system, the bandwidth of a communications connection between said client and server computer system, the date and/or time of day, the cost of a communications

connection between said client and server computer system, and the location of said client and/or server computer system (Kikuchi, Page. 7, Paragraph. 0037).

6. As per claims 4,23,40,53 Taylor-Kikuchi disclosed wherein said information handling capability comprises providing brokerage information to a user of said client computer system (Kikuchi, Page. 7, Paragraph. 0037).

7. As per claims 5,24,41,54 Taylor-Kikuchi disclosed wherein said brokerage information comprises product information and pricing (Kikuchi, Page. 7, Paragraph. 0037).

8. As per claims 6,25,42,55 Taylor-Kikuchi disclosed wherein said product is real estate property (Taylor, Page. 6, Paragraph 0056).

9. As per claims 7,26,43,56 Taylor-Kikuchi disclosed wherein said product is chattel property (Taylor, Page. 6, Paragraph 0056).

10. As per claims 8,27,44,57 Taylor-Kikuchi disclosed wherein said product is an automobile (Taylor, Page. 6, Paragraph 0056).

11. As per claims 9,28,45,58 Taylor-Kikuchi disclosed wherein said information handling capability comprises providing scheduling information to a user of said client computer system (Taylor, Page. 6, Paragraph. 0077).

12. As per claims 10,29,46,59 Taylor-Kikuchi disclosed wherein said information handling capability comprises providing financial information to a user of said client computer system (Taylor, Page. 6, Paragraph. 0056).

13. As per claims 11,30,47,60 Taylor-Kikuchi disclosed wherein said information handling capability comprises providing transportation service information to a user of said client computer system (Taylor, Page. 6, Paragraph. 0056).

14. As per claims 18,37,50,63 Taylor-Kikuchi disclosed wherein said media comprises a transmission type media (Taylor, Page. 5, Paragraph. 0052).

15. As per claims 19,38,51,64 Taylor-Kikuchi disclosed wherein said media comprises a storage media (Taylor, Page. 5, Paragraph. 0052).

16. As per claims 20,31,34,52 Taylor-Kikuchi disclosed a method of providing an information handling capability to a client computer system in a networked computer system comprising client and server computer systems, comprising the following, steps executed at a client computer system storing executable code for providing said information handling capability (Kikuchi, Page. 7, Paragraph. 0037), performing an analysis of usage of said information handling capability by said client computer system to determine whether said executable code ought to be retained in storage by said client computer system, and in response

to a determination that said executable code ought not be retained by said client computer system, unloading said executable code from storage in said client computer system (Taylor, Page. 7, Paragraph. 0073).

17. As per claims 21,32,35 Taylor-Kikuchi disclosed wherein said analysis comprises determining a period of disuse of said information handling capability by said client computer system (Taylor, Page. 6, Paragraph. 0077).

18. As per claims 22,33,36 Taylor-Kikuchi disclosed wherein said analysis comprises determining the presence of a connection between said client computer system and a server computer system involved in provision of said information handling capability (Taylor, Page. 6, Paragraph. 0077).

19. As per claims 39,48,49,61,62 Taylor-Kikuchi a disclosed method of providing an information handling capability to a client computer system in a networked computer system comprising client and server computer systems, comprises the following steps executed at a client computer system receiving from a server computer system, executable code for providing said information handling capability (Kikuchi, Page. 7, Paragraph. 0037), receiving from a server computer system, state information relating to a prior interaction of said client computer system and server computer system, utilizing said state information while executing said executable code at said client to provide said information handling capability (Taylor, Page. 7, Paragraph. 0073).

(10) Applicant's arguments:

A. Applicant argued that prior art did not disclose that “different executable code is being delivered to a client.”

As to applicant's argument KiKuchi disclosed, “A method of monitoring packets transmitted on a channel connecting an application server and a user of the application server to each other, including the steps of (a) acquiring a monitoring parameter indicative of a packet to be monitored, when the user log-in his/her terminal (b) monitoring a time at which packets coincident with monitoring parameter arrive, and determining whether there is any rule in an interval in the arrival time, and (c) making annunciation to the user when there is a certain rule in the interval” (Page. 2, Paragraph. 0018). One ordinary skill in the art at the time of the invention knows that executable code is defined as a group of instructions or commands that are being processed. Therefore Kikuchi monitoring packets file consist of one set of instructions that are sent from a server to a client. Only one set of instructions is sent, as shown in the instant claim language.

B. Applicant argued that prior art has no function to retrieve and output information that is different based upon a client's profile or functionality.

As to applicants argument Taylor disclosed, “A method of data management for efficiency storing and retrieving data in response to user access request is provided. The method includes receiving a request from at least one client for a title not resident in a storage server, where title includes a play trak having a plurality of chapters (Page. 1, Paragraph. 0009).

C. Applicant argued that prior art did not disclose, “Communications between a user and a server”

As to applicant’s argument KiKuchi disclosed, “A user makes a contract with a service provided 4 with respect to service fee, packet monitoring, and so on. A user receives services and content information in his/her data communication terminal 1 from an application server ((AP server) 8 through a wire/wireless network 2 a channel, the service provider and the Internet (Page. 2, Paragraph, 0037).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

Respectfully submitted,

/Adnan M Mirza/
Examiner, Art Unit 2145
JUN 05, 2008

Conferees

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145

/Rupal D. Dharia/
Supervisory Patent Examiner, Art Unit 2141

Art Unit: 2141

WOOD, HERRON & EVANS, L.L.P.
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202-2917

UNITED STATES